

**Senator Howard A. Stephenson** proposes the following substitute bill:

**SALES AND USE TAX EXEMPTION AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad R. Wilson**

Senate Sponsor: J. Stuart Adams

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**LONG TITLE**

**General Description:**

This bill amends a sales and use tax exemption.

**Highlighted Provisions:**

This bill:

- ▶ amends the sales and use tax exemption related to certain business entities to include certain materials and certain machinery, equipment, and replacement parts with an economic life of less than three years;
- ▶ phases in the new exemptions through a refund process; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**59-12-104**, as last amended by Laws of Utah 2015, Chapters 11, 294, and 353

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*Be it enacted by the Legislature of the state of Utah:*



26 Section 1. Section 59-12-104 is amended to read:

27 **59-12-104. Exemptions.**

28 Exemptions from the taxes imposed by this chapter are as follows:

29 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
30 under Chapter 13, Motor and Special Fuel Tax Act;

31 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political  
32 subdivisions; however, this exemption does not apply to sales of:

33 (a) construction materials except:

34 (i) construction materials purchased by or on behalf of institutions of the public  
35 education system as defined in Utah Constitution, Article X, Section 2, provided the  
36 construction materials are clearly identified and segregated and installed or converted to real  
37 property which is owned by institutions of the public education system; and

38 (ii) construction materials purchased by the state, its institutions, or its political  
39 subdivisions which are installed or converted to real property by employees of the state, its  
40 institutions, or its political subdivisions; or

41 (b) tangible personal property in connection with the construction, operation,  
42 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
43 providing additional project capacity, as defined in Section 11-13-103;

44 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

45 (i) the proceeds of each sale do not exceed \$1; and

46 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
47 the cost of the item described in Subsection (3)(b) as goods consumed; and

48 (b) Subsection (3)(a) applies to:

49 (i) food and food ingredients; or

50 (ii) prepared food;

51 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

52 (i) alcoholic beverages;

53 (ii) food and food ingredients; or

54 (iii) prepared food;

55 (b) sales of tangible personal property or a product transferred electronically:

56 (i) to a passenger;

- 57 (ii) by a commercial airline carrier; and
- 58 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 59 (c) services related to Subsection (4)(a) or (b);
- 60 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 61 and equipment:
- 62 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 63 North American Industry Classification System of the federal Executive Office of the
- 64 President, Office of Management and Budget; and
- 65 (II) for:
- 66 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 67 equipment in the aircraft;
- 68 (Bb) renovation of an aircraft; or
- 69 (Cc) repair of an aircraft; or
- 70 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 71 commerce; or
- 72 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 73 aircraft operated by a common carrier in interstate or foreign commerce; and
- 74 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 75 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 76 refund:
- 77 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 78 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 79 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
- 80 the sale prior to filing for the refund;
- 81 (iv) for sales and use taxes paid under this chapter on the sale;
- 82 (v) in accordance with Section 59-1-1410; and
- 83 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 84 the person files for the refund on or before September 30, 2011;
- 85 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 86 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 87 exhibitor, distributor, or commercial television or radio broadcaster;

88 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
89 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
90 washing of tangible personal property;

91 (b) if a seller that sells at the same business location assisted cleaning or washing of  
92 tangible personal property and cleaning or washing of tangible personal property that is not  
93 assisted cleaning or washing of tangible personal property, the exemption described in  
94 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
95 or washing of the tangible personal property; and

96 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,  
97 Utah Administrative Rulemaking Act, the commission may make rules:

98 (i) governing the circumstances under which sales are at the same business location;  
99 and

100 (ii) establishing the procedures and requirements for a seller to separately account for  
101 sales of assisted cleaning or washing of tangible personal property;

102 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
103 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are  
104 fulfilled;

105 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
106 this state if the vehicle is:

107 (a) not registered in this state; and

108 (b) (i) not used in this state; or

109 (ii) used in this state:

110 (A) if the vehicle is not used to conduct business, for a time period that does not  
111 exceed the longer of:

112 (I) 30 days in any calendar year; or

113 (II) the time period necessary to transport the vehicle to the borders of this state; or

114 (B) if the vehicle is used to conduct business, for the time period necessary to transport  
115 the vehicle to the borders of this state;

116 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

117 (i) the item is intended for human use; and

118 (ii) (A) a prescription was issued for the item; or

- 119 (B) the item was purchased by a hospital or other medical facility; and
- 120 (b) (i) Subsection (10)(a) applies to:
- 121 (A) a drug;
- 122 (B) a syringe; or
- 123 (C) a stoma supply; and
- 124 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 125 commission may by rule define the terms:
- 126 (A) "syringe"; or
- 127 (B) "stoma supply";
- 128 (11) purchases or leases exempt under Section 19-12-201;
- 129 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 130 (i) the following if the item described in Subsection (12)(c) is not available to the
- 131 general public:
- 132 (A) a church; or
- 133 (B) a charitable institution;
- 134 (ii) an institution of higher education if:
- 135 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 136 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 137 offered by the institution of higher education; or
- 138 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 139 (i) a medical facility; or
- 140 (ii) a nursing facility; and
- 141 (c) Subsections (12)(a) and (b) apply to:
- 142 (i) food and food ingredients;
- 143 (ii) prepared food; or
- 144 (iii) alcoholic beverages;
- 145 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 146 or a product transferred electronically by a person:
- 147 (i) regardless of the number of transactions involving the sale of that tangible personal
- 148 property or product transferred electronically by that person; and
- 149 (ii) not regularly engaged in the business of selling that type of tangible personal

150 property or product transferred electronically;

151 (b) this Subsection (13) does not apply if:

152 (i) the sale is one of a series of sales of a character to indicate that the person is  
153 regularly engaged in the business of selling that type of tangible personal property or product  
154 transferred electronically;

155 (ii) the person holds that person out as regularly engaged in the business of selling that  
156 type of tangible personal property or product transferred electronically;

157 (iii) the person sells an item of tangible personal property or product transferred  
158 electronically that the person purchased as a sale that is exempt under Subsection (25); or

159 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
160 this state in which case the tax is based upon:

161 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
162 sold; or

163 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
164 value of the vehicle or vessel being sold at the time of the sale as determined by the  
165 commission; and

166 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
167 commission shall make rules establishing the circumstances under which:

168 (i) a person is regularly engaged in the business of selling a type of tangible personal  
169 property or product transferred electronically;

170 (ii) a sale of tangible personal property or a product transferred electronically is one of  
171 a series of sales of a character to indicate that a person is regularly engaged in the business of  
172 selling that type of tangible personal property or product transferred electronically; or

173 (iii) a person holds that person out as regularly engaged in the business of selling a type  
174 of tangible personal property or product transferred electronically;

175 (14) (a) except as provided in Subsection (14)(d), amounts paid or charged for a  
176 purchase or lease:

177 (i) by a manufacturing facility located in the state; [~~and~~]

178 (ii) of machinery, equipment, or normal operating repair or replacement parts if the  
179 machinery, equipment, or normal operating repair or replacement parts have an economic life  
180 of three or more years and are used:

181 (A) in the manufacturing process to manufacture an item sold as tangible personal  
182 property; or

183 (B) for a scrap recycler, to process an item sold as tangible personal property;

184 (iii) of machinery, equipment, or normal operating repair or replacement parts if the  
185 machinery, equipment, or normal operating repair or replacement parts have an economic life  
186 of less than three years and are used:

187 (A) in the manufacturing process to manufacture an item sold as tangible personal  
188 property; or

189 (B) for a scrap recycler, to process an item sold as tangible personal property; and

190 (iv) of materials, except for office equipment or office supplies, if those materials are  
191 used or consumed:

192 (A) in the manufacturing process to manufacture an item sold as tangible personal  
193 property; or

194 (B) for a scrap recycler, to process an item sold as tangible personal property;

195 (b) except as provided in Subsection (14)(d), amounts paid or charged for a purchase or  
196 lease:

197 (i) by an establishment:

198 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code  
199 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or  
200 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North  
201 American Industry Classification System of the federal Executive Office of the President,  
202 Office of Management and Budget; and

203 (B) located in the state; [~~and~~]

204 (ii) of machinery, equipment, or normal operating repair or replacement parts if the  
205 machinery, equipment, or normal operating repair or replacement parts have an economic life  
206 of three or more years and are used in:

207 (A) the production process to produce an item sold as tangible personal property;

208 (B) research and development;

209 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
210 produced from mining;

211 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in

212 mining; or

213 (E) preventing, controlling, or reducing dust or other pollutants from mining;

214 (iii) of machinery, equipment, or normal operating repair or replacement parts if the

215 machinery, equipment, or normal operating repair or replacement parts have an economic life

216 of less than three years and are used in:

217 (A) the production process to produce an item sold as tangible personal property;

218 (B) research and development;

219 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

220 produced from mining;

221 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in

222 mining; or

223 (E) preventing, controlling, or reducing dust or other pollutants from mining; and

224 (iv) of materials, except for office equipment or office supplies, if those materials are

225 used or consumed in:

226 (A) the production process to produce an item sold as tangible personal property;

227 (B) research and development;

228 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

229 produced from mining;

230 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in

231 mining; or

232 (E) preventing, controlling, or reducing dust or other pollutants from mining;

233 (c) except as provided in Subsection (14)(d), amounts paid or charged for a purchase or

234 lease:

235 (i) by an establishment:

236 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North

237 American Industry Classification System of the federal Executive Office of the President,

238 Office of Management and Budget; and

239 (B) located in the state; ~~and~~

240 (ii) of machinery, equipment, or normal operating repair or replacement parts if the

241 machinery, equipment, or normal operating repair or replacement parts ~~[: (A) are used in the~~

242 ~~operation of the web search portal; and (B)]~~ have an economic life of three or more years and

243 are used in the operation of the web search portal;

244 (iii) of machinery, equipment, or normal operating repair or replacement parts if the  
245 machinery, equipment, or normal operating repair or replacement parts have an economic life  
246 of less than three years and are used in the operation of the web search portal; and

247 (iv) of materials, except for office equipment or office supplies, if those materials are  
248 used or consumed in the operation of the web search portal;

249 (d) beginning on July 1, 2017, and ending on June 30, 2019, a person may claim an  
250 exemption described in Subsection (14)(a)(iii), (a)(iv), (b)(iii), (b)(iv), (c)(iii), or (c)(iv) only by  
251 filing, in accordance with Section [59-1-1410](#), for a refund:

252 (i) for amounts paid or charged on or after July 1, 2017, but on or before June 30, 2018,  
253 of 33% of the tax paid on the amounts paid or charged; or

254 (ii) for amounts paid or charged on or after July 1, 2018, but on or before June 30,  
255 2019, of 66% of the tax paid on the amounts paid or charged.

256 ~~[(d)]~~ (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter  
257 3, Utah Administrative Rulemaking Act, the commission:

258 (i) shall by rule define the term "establishment"; and

259 (ii) may by rule define what constitutes:

260 (A) processing an item sold as tangible personal property;

261 (B) the production process, to produce an item sold as tangible personal property; or

262 (C) research and development; and

263 ~~[(e)]~~ (f) on or before October 1, 2016, and every five years after October 1, 2016, the  
264 commission shall:

265 (i) review the exemptions described in this Subsection (14) and make  
266 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
267 exemptions should be continued, modified, or repealed; and

268 (ii) include in its report:

269 (A) an estimate of the cost of the exemptions;

270 (B) the purpose and effectiveness of the exemptions; and

271 (C) the benefits of the exemptions to the state;

272 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

273 (i) tooling;

- 274 (ii) special tooling;
- 275 (iii) support equipment;
- 276 (iv) special test equipment; or
- 277 (v) parts used in the repairs or renovations of tooling or equipment described in
- 278 Subsections (15)(a)(i) through (iv); and
- 279 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 280 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 281 performance of any aerospace or electronics industry contract with the United States
- 282 government or any subcontract under that contract; and
- 283 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 284 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 285 by:
- 286 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 287 (B) listing on a government-approved property record if placing a government
- 288 identification tag on the tooling, equipment, or parts is impractical;
- 289 (16) sales of newspapers or newspaper subscriptions;
- 290 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
- 291 product transferred electronically traded in as full or part payment of the purchase price, except
- 292 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
- 293 trade-ins are limited to other vehicles only, and the tax is based upon:
- 294 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 295 vehicle being traded in; or
- 296 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 297 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 298 commission; and
- 299 (b) Subsection (17)(a) does not apply to the following items of tangible personal
- 300 property or products transferred electronically traded in as full or part payment of the purchase
- 301 price:
- 302 (i) money;
- 303 (ii) electricity;
- 304 (iii) water;

305 (iv) gas; or  
306 (v) steam;  
307 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
308 or a product transferred electronically used or consumed primarily and directly in farming  
309 operations, regardless of whether the tangible personal property or product transferred  
310 electronically:  
311 (A) becomes part of real estate; or  
312 (B) is installed by a:  
313 (I) farmer;  
314 (II) contractor; or  
315 (III) subcontractor; or  
316 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
317 product transferred electronically if the tangible personal property or product transferred  
318 electronically is exempt under Subsection (18)(a)(i); and  
319 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
320 chapter:  
321 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is  
322 incidental to farming:  
323 (I) machinery;  
324 (II) equipment;  
325 (III) materials; or  
326 (IV) supplies; and  
327 (B) tangible personal property that is considered to be used in a manner that is  
328 incidental to farming includes:  
329 (I) hand tools; or  
330 (II) maintenance and janitorial equipment and supplies;  
331 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
332 transferred electronically if the tangible personal property or product transferred electronically  
333 is used in an activity other than farming; and  
334 (B) tangible personal property or a product transferred electronically that is considered  
335 to be used in an activity other than farming includes:

- 336 (I) office equipment and supplies; or
- 337 (II) equipment and supplies used in:
  - 338 (Aa) the sale or distribution of farm products;
  - 339 (Bb) research; or
  - 340 (Cc) transportation; or
  - 341 (iii) a vehicle required to be registered by the laws of this state during the period
  - 342 ending two years after the date of the vehicle's purchase;
- 343 (19) sales of hay;
- 344 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 345 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 346 garden, farm, or other agricultural produce is sold by:
  - 347 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
  - 348 agricultural produce;
  - 349 (b) an employee of the producer described in Subsection (20)(a); or
  - 350 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 351 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 352 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 353 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 354 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 355 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 356 manufacturer, processor, wholesaler, or retailer;
- 357 (23) a product stored in the state for resale;
- 358 (24) (a) purchases of a product if:
  - 359 (i) the product is:
    - 360 (A) purchased outside of this state;
    - 361 (B) brought into this state:
      - 362 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
      - 363 (II) by a nonresident person who is not living or working in this state at the time of the
      - 364 purchase;
    - 365 (C) used for the personal use or enjoyment of the nonresident person described in
    - 366 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

- 367 (D) not used in conducting business in this state; and  
368 (ii) for:  
369 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
370 the product for a purpose for which the product is designed occurs outside of this state;  
371 (B) a boat, the boat is registered outside of this state; or  
372 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
373 outside of this state;  
374 (b) the exemption provided for in Subsection (24)(a) does not apply to:  
375 (i) a lease or rental of a product; or  
376 (ii) a sale of a vehicle exempt under Subsection (33); and  
377 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
378 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
379 following:  
380 (i) conducting business in this state if that phrase has the same meaning in this  
381 Subsection (24) as in Subsection (63);  
382 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)  
383 as in Subsection (63); or  
384 (iii) a purpose for which a product is designed if that phrase has the same meaning in  
385 this Subsection (24) as in Subsection (63);  
386 (25) a product purchased for resale in this state, in the regular course of business, either  
387 in its original form or as an ingredient or component part of a manufactured or compounded  
388 product;  
389 (26) a product upon which a sales or use tax was paid to some other state, or one of its  
390 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
391 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
392 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
393 Act;  
394 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
395 person for use in compounding a service taxable under the subsections;  
396 (28) purchases made in accordance with the special supplemental nutrition program for  
397 women, infants, and children established in 42 U.S.C. Sec. 1786;

398 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
399 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
400 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
401 the President, Office of Management and Budget;

402 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
403 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

404 (a) not registered in this state; and

405 (b) (i) not used in this state; or

406 (ii) used in this state:

407 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
408 time period that does not exceed the longer of:

409 (I) 30 days in any calendar year; or

410 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
411 the borders of this state; or

412 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
413 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
414 state;

415 (31) sales of aircraft manufactured in Utah;

416 (32) amounts paid for the purchase of telecommunications service for purposes of  
417 providing telecommunications service;

418 (33) sales, leases, or uses of the following:

419 (a) a vehicle by an authorized carrier; or

420 (b) tangible personal property that is installed on a vehicle:

421 (i) sold or leased to or used by an authorized carrier; and

422 (ii) before the vehicle is placed in service for the first time;

423 (34) (a) 45% of the sales price of any new manufactured home; and

424 (b) 100% of the sales price of any used manufactured home;

425 (35) sales relating to schools and fundraising sales;

426 (36) sales or rentals of durable medical equipment if:

427 (a) a person presents a prescription for the durable medical equipment; and

428 (b) the durable medical equipment is used for home use only;

429 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
430 Section 72-11-102; and

431 (b) the commission shall by rule determine the method for calculating sales exempt  
432 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

433 (38) sales to a ski resort of:

434 (a) snowmaking equipment;

435 (b) ski slope grooming equipment;

436 (c) passenger ropeways as defined in Section 72-11-102; or

437 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
438 described in Subsections (38)(a) through (c);

439 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

440 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
441 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
442 59-12-102;

443 (b) if a seller that sells or rents at the same business location the right to use or operate  
444 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
445 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
446 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
447 amusement, entertainment, or recreation for the assisted amusement devices; and

448 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
449 Utah Administrative Rulemaking Act, the commission may make rules:

450 (i) governing the circumstances under which sales are at the same business location;  
451 and

452 (ii) establishing the procedures and requirements for a seller to separately account for  
453 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
454 assisted amusement devices;

455 (41) (a) sales of photocopies by:

456 (i) a governmental entity; or

457 (ii) an entity within the state system of public education, including:

458 (A) a school; or

459 (B) the State Board of Education; or

- 460 (b) sales of publications by a governmental entity;
- 461 (42) amounts paid for admission to an athletic event at an institution of higher
- 462 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 463 20 U.S.C. Sec. 1681 et seq.;
- 464 (43) (a) sales made to or by:
- 465 (i) an area agency on aging; or
- 466 (ii) a senior citizen center owned by a county, city, or town; or
- 467 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 468 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 469 materials regardless of whether the semiconductor fabricating, processing, research, or
- 470 development materials:
- 471 (a) actually come into contact with a semiconductor; or
- 472 (b) ultimately become incorporated into real property;
- 473 (45) an amount paid by or charged to a purchaser for accommodations and services
- 474 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 475 [59-12-104.2](#);
- 476 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 477 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 478 specified on the temporary sports event registration certificate;
- 479 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
- 480 by the Public Service Commission of Utah only for purchase of electricity produced from a
- 481 new alternative energy source, as designated in the tariff by the Public Service Commission of
- 482 Utah; and
- 483 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
- 484 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
- 485 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 486 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 487 prescription for the mobility enhancing equipment;
- 488 (49) sales of water in a:
- 489 (a) pipe;
- 490 (b) conduit;

- 491 (c) ditch; or
- 492 (d) reservoir;
- 493 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 494 or a foreign nation;
- 495 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 496 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 497 (ii) has a gold, silver, or platinum content of 50% or more; and
- 498 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 499 (i) ingot;
- 500 (ii) bar;
- 501 (iii) medallion; or
- 502 (iv) decorative coin;
- 503 (52) amounts paid on a sale-leaseback transaction;
- 504 (53) sales of a prosthetic device:
- 505 (a) for use on or in a human; and
- 506 (b) (i) for which a prescription is required; or
- 507 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 508 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 509 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 510 or equipment is primarily used in the production or postproduction of the following media for
- 511 commercial distribution:
- 512 (i) a motion picture;
- 513 (ii) a television program;
- 514 (iii) a movie made for television;
- 515 (iv) a music video;
- 516 (v) a commercial;
- 517 (vi) a documentary; or
- 518 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 519 commission by administrative rule made in accordance with Subsection (54)(d); or
- 520 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 521 described in Subsection (54)(c) that is used for the production or postproduction of the

522 following are subject to the taxes imposed by this chapter:

523 (i) a live musical performance;

524 (ii) a live news program; or

525 (iii) a live sporting event;

526 (c) the following establishments listed in the 1997 North American Industry

527 Classification System of the federal Executive Office of the President, Office of Management

528 and Budget, apply to Subsections (54)(a) and (b):

529 (i) NAICS Code 512110; or

530 (ii) NAICS Code 51219; and

531 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

532 commission may by rule:

533 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

534 or

535 (ii) define:

536 (A) "commercial distribution";

537 (B) "live musical performance";

538 (C) "live news program"; or

539 (D) "live sporting event";

540 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

541 on or before June 30, 2027, of tangible personal property that:

542 (i) is leased or purchased for or by a facility that:

543 (A) is an alternative energy electricity production facility;

544 (B) is located in the state; and

545 (C) (I) becomes operational on or after July 1, 2004; or

546 (II) has its generation capacity increased by one or more megawatts on or after July 1,

547 2004, as a result of the use of the tangible personal property;

548 (ii) has an economic life of five or more years; and

549 (iii) is used to make the facility or the increase in capacity of the facility described in

550 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

551 transmission grid including:

552 (A) a wind turbine;

- 553 (B) generating equipment;
- 554 (C) a control and monitoring system;
- 555 (D) a power line;
- 556 (E) substation equipment;
- 557 (F) lighting;
- 558 (G) fencing;
- 559 (H) pipes; or
- 560 (I) other equipment used for locating a power line or pole; and
- 561 (b) this Subsection (55) does not apply to:
  - 562 (i) tangible personal property used in construction of:
    - 563 (A) a new alternative energy electricity production facility; or
    - 564 (B) the increase in the capacity of an alternative energy electricity production facility;
  - 565 (ii) contracted services required for construction and routine maintenance activities;
  - 566 and
  - 567 (iii) unless the tangible personal property is used or acquired for an increase in capacity
  - 568 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
  - 569 acquired after:
    - 570 (A) the alternative energy electricity production facility described in Subsection
    - 571 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
    - 572 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
    - 573 in Subsection (55)(a)(iii);
  - 574 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
  - 575 on or before June 30, 2027, of tangible personal property that:
    - 576 (i) is leased or purchased for or by a facility that:
      - 577 (A) is a waste energy production facility;
      - 578 (B) is located in the state; and
      - 579 (C) (I) becomes operational on or after July 1, 2004; or
      - 580 (II) has its generation capacity increased by one or more megawatts on or after July 1,
      - 581 2004, as a result of the use of the tangible personal property;
      - 582 (ii) has an economic life of five or more years; and
      - 583 (iii) is used to make the facility or the increase in capacity of the facility described in

584 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
585 transmission grid including:  
586 (A) generating equipment;  
587 (B) a control and monitoring system;  
588 (C) a power line;  
589 (D) substation equipment;  
590 (E) lighting;  
591 (F) fencing;  
592 (G) pipes; or  
593 (H) other equipment used for locating a power line or pole; and  
594 (b) this Subsection (56) does not apply to:  
595 (i) tangible personal property used in construction of:  
596 (A) a new waste energy facility; or  
597 (B) the increase in the capacity of a waste energy facility;  
598 (ii) contracted services required for construction and routine maintenance activities;  
599 and  
600 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
601 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:  
602 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
603 described in Subsection (56)(a)(iii); or  
604 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
605 in Subsection (56)(a)(iii);  
606 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on  
607 or before June 30, 2027, of tangible personal property that:  
608 (i) is leased or purchased for or by a facility that:  
609 (A) is located in the state;  
610 (B) produces fuel from alternative energy, including:  
611 (I) methanol; or  
612 (II) ethanol; and  
613 (C) (I) becomes operational on or after July 1, 2004; or  
614 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as

615 a result of the installation of the tangible personal property;

616 (ii) has an economic life of five or more years; and

617 (iii) is installed on the facility described in Subsection (57)(a)(i);

618 (b) this Subsection (57) does not apply to:

619 (i) tangible personal property used in construction of:

620 (A) a new facility described in Subsection (57)(a)(i); or

621 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

622 (ii) contracted services required for construction and routine maintenance activities;

623 and

624 (iii) unless the tangible personal property is used or acquired for an increase in capacity

625 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

626 (A) the facility described in Subsection (57)(a)(i) is operational; or

627 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

628 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a

629 product transferred electronically to a person within this state if that tangible personal property

630 or product transferred electronically is subsequently shipped outside the state and incorporated

631 pursuant to contract into and becomes a part of real property located outside of this state;

632 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

633 state or political entity to which the tangible personal property is shipped imposes a sales, use,

634 gross receipts, or other similar transaction excise tax on the transaction against which the other

635 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

636 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

637 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a

638 refund:

639 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

640 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on

641 which the sale is made;

642 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the

643 sale prior to filing for the refund;

644 (iv) for sales and use taxes paid under this chapter on the sale;

645 (v) in accordance with Section 59-1-1410; and

646 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
647 the person files for the refund on or before June 30, 2011;

648 (59) purchases:

649 (a) of one or more of the following items in printed or electronic format:

650 (i) a list containing information that includes one or more:

651 (A) names; or

652 (B) addresses; or

653 (ii) a database containing information that includes one or more:

654 (A) names; or

655 (B) addresses; and

656 (b) used to send direct mail;

657 (60) redemptions or repurchases of a product by a person if that product was:

658 (a) delivered to a pawnbroker as part of a pawn transaction; and

659 (b) redeemed or repurchased within the time period established in a written agreement  
660 between the person and the pawnbroker for redeeming or repurchasing the product;

661 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

662 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

663 and

664 (ii) has a useful economic life of one or more years; and

665 (b) the following apply to Subsection (61)(a):

666 (i) telecommunications enabling or facilitating equipment, machinery, or software;

667 (ii) telecommunications equipment, machinery, or software required for 911 service;

668 (iii) telecommunications maintenance or repair equipment, machinery, or software;

669 (iv) telecommunications switching or routing equipment, machinery, or software; or

670 (v) telecommunications transmission equipment, machinery, or software;

671 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible  
672 personal property or a product transferred electronically that are used in the research and  
673 development of alternative energy technology; and

674 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
675 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
676 purchases of tangible personal property or a product transferred electronically that are used in

677 the research and development of alternative energy technology;

678 (63) (a) purchases of tangible personal property or a product transferred electronically

679 if:

680 (i) the tangible personal property or product transferred electronically is:

681 (A) purchased outside of this state;

682 (B) brought into this state at any time after the purchase described in Subsection

683 (63)(a)(i)(A); and

684 (C) used in conducting business in this state; and

685 (ii) for:

686 (A) tangible personal property or a product transferred electronically other than the

687 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

688 for a purpose for which the property is designed occurs outside of this state; or

689 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

690 outside of this state;

691 (b) the exemption provided for in Subsection (63)(a) does not apply to:

692 (i) a lease or rental of tangible personal property or a product transferred electronically;

693 or

694 (ii) a sale of a vehicle exempt under Subsection (33); and

695 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

696 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

697 following:

698 (i) conducting business in this state if that phrase has the same meaning in this

699 Subsection (63) as in Subsection (24);

700 (ii) the first use of tangible personal property or a product transferred electronically if

701 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

702 (iii) a purpose for which tangible personal property or a product transferred

703 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

704 Subsection (24);

705 (64) sales of disposable home medical equipment or supplies if:

706 (a) a person presents a prescription for the disposable home medical equipment or

707 supplies;

708 (b) the disposable home medical equipment or supplies are used exclusively by the  
709 person to whom the prescription described in Subsection (64)(a) is issued; and

710 (c) the disposable home medical equipment and supplies are listed as eligible for  
711 payment under:

712 (i) Title XVIII, federal Social Security Act; or

713 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

714 (65) sales:

715 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

716 District Act; or

717 (b) of tangible personal property to a subcontractor of a public transit district, if the

718 tangible personal property is:

719 (i) clearly identified; and

720 (ii) installed or converted to real property owned by the public transit district;

721 (66) sales of construction materials:

722 (a) purchased on or after July 1, 2010;

723 (b) purchased by, on behalf of, or for the benefit of an international airport:

724 (i) located within a county of the first class; and

725 (ii) that has a United States customs office on its premises; and

726 (c) if the construction materials are:

727 (i) clearly identified;

728 (ii) segregated; and

729 (iii) installed or converted to real property:

730 (A) owned or operated by the international airport described in Subsection (66)(b); and

731 (B) located at the international airport described in Subsection (66)(b);

732 (67) sales of construction materials:

733 (a) purchased on or after July 1, 2008;

734 (b) purchased by, on behalf of, or for the benefit of a new airport:

735 (i) located within a county of the second class; and

736 (ii) that is owned or operated by a city in which an airline as defined in Section

737 [59-2-102](#) is headquartered; and

738 (c) if the construction materials are:

- 739 (i) clearly identified;
- 740 (ii) segregated; and
- 741 (iii) installed or converted to real property:
- 742 (A) owned or operated by the new airport described in Subsection (67)(b);
- 743 (B) located at the new airport described in Subsection (67)(b); and
- 744 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 745 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 746 (69) purchases and sales described in Section [63H-4-111](#);
- 747 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 748 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 749 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 750 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 751 powered aircraft; or
- 752 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 753 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 754 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 755 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 756 powered aircraft;
- 757 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 758 (a) to a person admitted to an institution of higher education; and
- 759 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 760 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 761 textbook for a higher education course;
- 762 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 763 [10-1-203\(5\)](#) on a purchaser from a business for which the municipality provides an enhanced
- 764 level of municipal services;
- 765 (73) amounts paid or charged for construction materials used in the construction of a
- 766 new or expanding life science research and development facility in the state, if the construction
- 767 materials are:
- 768 (a) clearly identified;
- 769 (b) segregated; and

770 (c) installed or converted to real property;  
771 (74) amounts paid or charged for:  
772 (a) a purchase or lease of machinery and equipment that:  
773 (i) are used in performing qualified research:  
774 (A) as defined in Section 41(d), Internal Revenue Code; and  
775 (B) in the state; and  
776 (ii) have an economic life of three or more years; and  
777 (b) normal operating repair or replacement parts:  
778 (i) for the machinery and equipment described in Subsection (74)(a); and  
779 (ii) that have an economic life of three or more years;  
780 (75) a sale or lease of tangible personal property used in the preparation of prepared  
781 food if:  
782 (a) for a sale:  
783 (i) the ownership of the seller and the ownership of the purchaser are identical; and  
784 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that  
785 tangible personal property prior to making the sale; or  
786 (b) for a lease:  
787 (i) the ownership of the lessor and the ownership of the lessee are identical; and  
788 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
789 personal property prior to making the lease;  
790 (76) (a) purchases of machinery or equipment if:  
791 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
792 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
793 System of the federal Executive Office of the President, Office of Management and Budget;  
794 (ii) the machinery or equipment:  
795 (A) has an economic life of three or more years; and  
796 (B) is used by one or more persons who pay admission or user fees described in  
797 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
798 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
799 (A) amounts paid or charged as admission or user fees described in Subsection  
800 59-12-103(1)(f); and

- 801 (B) subject to taxation under this chapter;
- 802 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
803 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
804 previous calendar quarter is:
- 805 (i) amounts paid or charged as admission or user fees described in Subsection  
806 59-12-103(1)(f); and
- 807 (ii) subject to taxation under this chapter; and
- 808 (c) on or before the November 2018 interim meeting, and every five years after the  
809 November 2018 interim meeting, the commission shall review the exemption provided in this  
810 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
- 811 (i) the revenue lost to the state and local taxing jurisdictions as a result of the  
812 exemption;
- 813 (ii) the purpose and effectiveness of the exemption; and
- 814 (iii) whether the exemption benefits the state;
- 815 (77) purchases of a short-term lodging consumable by a business that provides  
816 accommodations and services described in Subsection 59-12-103(1)(i);
- 817 (78) amounts paid or charged to access a database:
- 818 (a) if the primary purpose for accessing the database is to view or retrieve information  
819 from the database; and
- 820 (b) not including amounts paid or charged for a:
- 821 (i) digital audiowork;
- 822 (ii) digital audio-visual work; or
- 823 (iii) digital book;
- 824 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
825 payment service, of:
- 826 (a) machinery and equipment that:
- 827 (i) are used in the operation of the electronic financial payment service; and
- 828 (ii) have an economic life of three or more years; and
- 829 (b) normal operating repair or replacement parts that:
- 830 (i) are used in the operation of the electronic financial payment service; and
- 831 (ii) have an economic life of three or more years;

832 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

833 (81) amounts paid or charged for a purchase or lease of tangible personal property or a  
834 product transferred electronically if the tangible personal property or product transferred  
835 electronically:

836 (a) is stored, used, or consumed in the state; and

837 (b) is temporarily brought into the state from another state:

838 (i) during a disaster period as defined in Section 53-2a-1202;

839 (ii) by an out-of-state business as defined in Section 53-2a-1202;

840 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

841 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

842 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined  
843 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and  
844 Recreation Program;

845 (83) amounts paid or charged for a purchase or lease of molten magnesium; and

846 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a  
847 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,  
848 materials, or normal operating repair or replacement parts:

849 (i) that are used or consumed exclusively in the drilling equipment manufacturer's  
850 manufacturing process; and

851 (ii) except for office:

852 (A) equipment; or

853 (B) supplies; and

854 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an  
855 exemption described in Subsection (84)(a) only by filing for a refund:

856 (i) of 50% of the tax paid on the amounts paid or charged; and

857 (ii) in accordance with Section 59-1-1410.

858 Section 2. **Effective date.**

859 This bill takes effect on July 1, 2017.